

REMARKS/ARGUMENTS

Claims x-x are amended by this response. Claims x-x are canceled. No claims are added. Accordingly, claims x-x remain pending in the instant application.

In the latest office action, the Examiner requested written affirmation of the prior oral election Group I claims 1-5. Accordingly, Group II claims 6-18 are hereby canceled without prejudice to filing divisional applications directed thereto.

Also in the latest office action, the Examiner refused to consider published U.S. patent applications previously submitted in an Information Disclosure Statement. Filed herewith is a supplemental information disclosure statement properly referencing a published U.S. patent application.

The Examiner rejected claims 1-5 under the doctrine of obviousness-type double patenting, based upon the following references: U.S. patent application no. 10/429,022; U.S. patent application no. 10/412,446; U.S. patent no. 6,830,624; and U.S. patent no. 6,793,733. It is noted that copending U.S. patent application no. 10/429,022 actually corresponds to granted U.S. patent no. 6,830,624, and that copending U.S. patent application no. 10/057,280 actually corresponds to granted U.S. patent no. 6,793,733.

Accordingly, filed herewith please find terminal disclaimers of this application over U.S. patent no. 6,830,624, U.S. patent no. 6,793,733, and pending U.S. patent application no. 10/412,446. Accordingly, it is respectfully asserted that the double patenting rejections have now been overcome.

Finally, the Examiner rejected claims 1-5 either as anticipated under 35 U.S.C. §102, or obvious under 35 U.S.C. §103, in view of U.S. patent no. 6,454,860 to Metzner ("the Metzner Patent"). Regarding the anticipation claim rejections, the Examiner is respectfully reminded:

[t]he distinction between rejections based on 35 U.S.C. 102 and those based on 35 U.S.C. 103 should be kept in mind. Under the former, the claim is anticipated by the reference. No question of obviousness is present. In other words, for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present. (Emphasis added; MPEP 706.02)

Here, the Metzner Patent contains no teaching, implicit or even implied, regarding all of the elements of pending independent claim 1. For example, while the Metzner Patent does describe a gas distribution showerhead, the Metzner Patent entirely fails to teach or even suggest inlets of a showerhead that are configured to create a uniform pressure drop of between about 0.8 and 1 Torr across edge and center regions of the faceplate.

Regarding the obviousness claim rejections, the Examiner indicated that these rejections could be overcome by showing the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person.

Accordingly, attached is a copy of the assignment of the instant application to Applied Materials, Inc., executed on September 25, 2003 and September 26, 2003 by the various inventors. Also attached is a copy of the assignment of U.S. patent application no. 09/179,921 (corresponding to the Metzner Patent) to Applied Materials, Inc., executed on October 27, 1998, more than **four** years prior to the filing date of the instant application.

Based upon these assignments, it is respectfully asserted that common ownership of the instant application and the Metzner Patent has been established. Accordingly, the rejections of the pending claims as obvious in light of the Metzner Patent have been overcome, and these claim rejections should be withdrawn.

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



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